

### **REMARKS/AMENDMENTS**

This paper addresses the issues raised in the Office Action mailed June 15, 2005. This amendment is submitted in compliance with the guidelines of the revised amendment practice. See 1267 Off. Gazette 106.

Claims 1-20 are currently pending. Claims 17-19 were objected to due to informalities. Claims 10, 11, 19 and 20 were rejected under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, as being indefinite. Claims 1-3, 5, 7-8, 10-12, 16, 18 and 19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Zysman (USPN 3,633,228). Claims 1-15 were rejected under 35 U.S.C. § 102(e) as being anticipated by Swartzentruber (US 2003\0155389). Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable in light of Zysman in view of Swartzentruber. Claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable in light of Zysman in view of Rylander (USPN 4,749,011). Claims 1, 3, 4, 6, 10, 12, 13, 15, 16, 19 and 20 have been amended. No new matter has been added. Claims 2, 5, 8, 9, 11 and 14 have been cancelled. New Claims 21 and 22 have been added. No new matter has been added. As set out below, Applicant respectfully submits that the present invention as claimed is patentable over the cited art and urges the Examiner to reconsider the pending rejections.

### **Claim Objection**

The Examiner has initially objected to Claims 17-19 as erroneously including a “plus” sign prior to the “16” contained therein, i.e. “+ 16.” It is respectfully submitted these claims do not include the aforementioned “plus” sign but rather have the number one “1” with a strikethrough formatting. These claims were amended by preliminary amendment to correct a typographical error in which to reflect their dependance from Claim 16 and not from Claim 1 as originally submitted. Accordingly, in the preliminary amendment, the “16” was added and was thus underlined and the “1” was deleted and thus included the strikethrough formatting, as required. Thus, no additional amendment is required. Applicant respectfully requests the Examiner reconsider this objection.

### **Claims Rejection - 35 U.S.C. § 112, 2<sup>nd</sup> paragraph**

The Examiner has rejected Claims 10, 11, 19 and 20 were rejected under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, as being indefinite. More specifically, in Claims 10 and 19, the term

“horizontal” were held to be indefinite, Claim 11, the term “sufficiently flexible” was held to be indefinite, and in Claim 20, the term “panel proximate to said top edge” was held to be indefinite. Claims 10, 19 and 20 have been amended. No new matter has been added. Claim 11 has been canceled. The modifications to these claims are insubstantial to their scope and no surrender of equivalents is intended. Reconsideration is respectfully requested.

#### **Claims Rejection - 35 U.S.C. § 102(b)**

The Examiner has rejected Claims 1-3, 5, 7-8, 10-12, 16, 18 and 19 under 35 U.S.C. § 102(b) as being anticipated by Zysman (USPN 3,633,228). As set out above, Claims 2, 5, 8 and 11 have been canceled, rendering this rejection moot as to these claims. As for Claims 1, 3, 10, 12, 16 and 19, these claims have been amended. It is respectfully submitted that these claims, as amended, are not anticipated by the cited reference. Reconsideration is respectfully requested.

With respect to the cited reference, it discloses a spring upholstery assembly. It includes a plurality of helical springs interconnected into an integral web. It does not teach or disclose a flat panel being constructed of a material that allows for the deformation thereof into a substantially cylindrical configuration. Additionally, this reference does not teach or disclose the inclusion of memory retention units being constructed of a second material that allows for the spring upholstery assembly to be deformed into a substantially cylindrical configuration and also having sufficient memory characteristics for returning to its normal configuration.

It is respectfully submitted, the above elements of a flat panel being created out of a first material and having memory retention units being created out of a second material, with both materials having the characteristics as set out in the respective claims cannot be found in the cited reference. Accordingly, it is submitted that Claims 1, 3, 10, 12, 16 and 19 are not anticipated by this reference. Reconsideration of this rejection is respectfully submitted.

#### **Claims Rejection - 35 U.S.C. § 102(e)**

The Examiner has rejected Claims 1-15 under 35 U.S.C. § 102(e) as being anticipated by Swartzentruber (US 2003\0155389). As set out above, Claims 2, 5, 8, 11 and 14 have been canceled, rendering this rejection moot as to these claims. As for Claims 1, 3, 4, 6, 10, 12, 113 and 15, these claims have been amended. It is respectfully submitted that these claims, as amended, are not anticipated by the cited reference. Reconsideration is respectfully requested.

With respect to the cited reference, it discloses a watch having a bistable metal spring band. The bistable spring band has two separate states of being, an elongated state and a coiled state. To change between these states, outside force is required to act upon the band. If no outside force acts on the band, it will remain in its current state. If this were not the case, then the purpose of this reference could not be fulfilled, i.e. remain coiled around a users arm or to allow it to be placed on/removed from the user's arm. This reference, however, does not teach or disclose a memory retention unit that is sufficiently flexible to deform into a cylindrical configuration due to outside pressure (force) and to return to its original flat configuration once the pressure (force) is removed.

Regarding independent Claim 1, it has been amended to include the element that the memory retention units have the flexibility to deform into a cylindrical configuration due to outside pressure (force) and to return to its original flat configuration once the pressure (force) is removed. Accordingly, it is respectfully submitted, this element is not taught, disclosed or otherwise found in this reference.

As for the remaining claims, it is submitted that this reference does not teach nor disclose a channel in material coating which is placed over the bistable metal spring body. Further, while the Examiner cited to MPEP 2144.07, an MPEP section which discusses obviousness-type rejections and not anticipation-type rejections, it is submitted that the use of various additional types of materials would suffer the same deficiency as the bistable metal spring body in that they would not have the capability to return to a normal flat state without additional force.

Accordingly, such reference cannot anticipate Claims 1, 3, 4, 6, 7, 9, 10, 12, 13 and 15, as amended. Reconsideration of this rejection is respectfully submitted.

**Claims Rejection - 35 U.S.C. § 103(a)**

*(Claim 17)*

The Examiner has rejected Claim 17 under 35 U.S.C. § 103(a) as being unpatentable in light of Zysman in view of Swartzentruber. It is submitted that these references do not render Claim 17 as unpatentable. The combination of these references is not proper, nor if they are properly combined would they produce the invention as set forth in Claim 17.

As set out above, Zysman teaches a spring upholstery assembly, having a plurality of helical springs interconnected into an integral web. Swartzentruber teaches a watch band

having a bistable metal string body. There is no teaching, suggestion or motivation to combine these references. Zysman has no need, nor can it use a bistable metal spring. The spring assembly configuration is designed to withstand forces, not curl up into a coil due to force. Further, there is no teaching, suggestion or motivation to use any type of spring, other than a bistable metal spring in Swartzentruber. Thus, it is respectfully submitted that these references are not properly combined.

For the reasons stated above, it is respectfully submitted that the Zysman reference in view of the Swartzentruber reference do not render Claim 17 unpatentable. Reconsideration of this rejection is respectfully submitted.

### **Claims Rejection - 35 U.S.C. § 103(a)**

#### ***(Claim 20)***

The Examiner has rejected Claim 20 under 35 U.S.C. § 103(a) as being unpatentable in light of Zysman in view of Rylander (USPN 4,749,011). It is submitted that these references do not render Claim 17 as unpatentable. The combination of these references is not proper, nor if they are properly combined would they produce the invention as set forth in Claim 17.

As set out above, Zysman teaches a spring upholstery assembly, having a plurality of helical springs interconnected into an integral web. Rylander teaches a flexible bag holder. There is no teaching, suggestion or motivation to combine these references. Zysman has no need, nor can it use gripping ridges. The Zysman disclosure teaches a series of helical springs contained within a mattress. There is no motivation, teaching or suggestion that grips from a flexible bag holder are needed or could be incorporated into therein.

Additionally, these references are not analogous. The Zysman discloses a spring upholstery assembly in U.S. Class 5/353 whereas the Rylander reference discloses a flexible bag holder in U.S. Class 141/316. It is submitted these references are not analogous, and as such are not proper for combination.

For the reasons stated above, it is respectfully submitted that the Zysman reference in view of the Rylander reference do not render Claim 20 unpatentable. Reconsideration of this rejection is respectfully submitted.

### **New Claims**

#### ***(Claims 21-22)***

New Claims 21-22 have been added. No new matter has been added. These claims further highlight the present invention in combination with a flexible container, such as a plastic lawn bag. It is submitted that for the reasons set forth above, these new claims are patentable over the cited references. Accordingly, it is respectfully submitted that these claims are in a condition for allowance, and such action is requested.

### CONCLUSION

Based on the above, the Applicant respectfully submits the claimed invention, as amended, is not rendered anticipated by the references cited by the Examiner, and that they are in a condition for allowance. It is believed that no additional fees are required with the filing of this paper. In the event, however, fees are due with this paper, please contact the undersigned.

Respectfully submitted,



Brent A. Caponhart  
Reg. No. 39,620

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LARIVIERE, GRUBMAN & PAYNE, LLP  
Post Office Box 3140  
Monterey, CA 93942  
(831) 649-8800